

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

OAKLAND TACTICAL
SUPPLY, LLC, et al.,

Plaintiffs,

Civil Action No. 18-CV-13443

vs.

HON. BERNARD A. FRIEDMAN

HOWELL TOWNSHIP,

Defendant.

_____ /

ORDER DENYING PLAINTIFFS' MOTION TO STRIKE

This matter is presently before the Court on plaintiffs' motion to strike [docket entry 66]. Defendant has filed a response in opposition. Plaintiffs have not filed a reply, and the time for them to do so has expired. Pursuant to E.D. Mich. LR 7.1(f)(2), the Court shall decide this motion without a hearing.

In the instant motion, plaintiffs seek to strike references to Exhibit B to defendant's answer¹ that appear in defendant's motion brought under Fed. R. Civ. P. 12(c). Plaintiffs argue that the Court should not consider references to Exhibit B in defendant's motion because Rule 12(c) "requires the Court to construe the plaintiff's well-pleaded allegations in the light most favorable to the plaintiff and accept the allegations as true." Pl.'s Br. at 3. Plaintiffs argue that defendant has provided no basis for the Court to consider Exhibit B "without converting its motion to one for summary judgment pursuant to [Fed. R. Civ. P. 56]." *Id.* They also argue that Exhibit

¹ Exhibit B to defendant's answer is a map of the State of Michigan with a heading stating "Michigan Shooting Ranges" and "Michigan Department of Natural Resources." Defendant has labeled Exhibit B as "Michigan Department of Natural Resources Map of Public Shooting Ranges."

B “is inadmissible pursuant to [Fed. R. Evid. 402], and is not appropriate for judicial notice pursuant to [Fed. R. Evid.] 201.” *Id.* at 5.

As defendant notes on page 2 of its response brief, this Court has previously stated that “[i]n ruling on a motion for judgment on the pleadings, the Court may consider documents attached to, incorporated by[,] or referred to in the pleadings.” *Bucciarelli v. Nationwide Mut. Ins. Co.*, 662 F. Supp. 2d 809, 814 (E.D. Mich. 2009) (citing *Weiner v. Klais and Co., Inc.*, 108 F.3d 86, 88 (6th Cir. 1997)); *see also Baker v. Smiscik*, 49 F. Supp. 3d 489, 494 (E.D. Mich. 2014) (“When evaluating a motion for a judgment on the pleadings, a court considers the complaint, the answer, and any written instrument attached as exhibits.”).

In the present case, the Court may consider Exhibit B to defendant’s answer in ruling on defendant’s Rule 12(c) motion because this document is attached to a pleading. Plaintiffs have not indicated otherwise or challenged the cases defendant relies on. Accordingly,

IT IS ORDERED that plaintiffs’ motion to strike is denied.

Dated: August 4, 2020
Detroit, Michigan

s/Bernard A. Friedman
Bernard A. Friedman
Senior United States District Judge